

### REMARKS

This Amendment is fully responsive to the final Office Action dated January 22, 2009, issued in connection with the above-identified application. Claims 1-10, 13-15 and 17-19 are pending in the present application. With this Amendment, claims 1-7, 10, 14, 15 and 17-19 have been amended. No new matter has been introduced by the amendments made to the claims. Favorable reconsideration is respectfully requested.

At the outset, the Applicants thank Examiner Jakovac and his supervisor for granting the interview conducted with the Applicants' representative on March 31, 2009. During the interview, the limitation of claim 17 directed to the "interruption reason," was discussed in detail. In particular, it was noted that the Examiner (in the present Office Action) appears to disregard the above limitation completely. The Examiner indicated that the limitation was considered (although not noted in the Office Action) and a broad interpretation of "interruption reason" limitation is believed to be disclosed or suggested by the Graham reference (e.g., in the sections cited by the Examiner in the Office Action).

However, the Examiner did indicate that if independent claim 17 was amended to recite in more detail the types of "interruption reasons" captured and considered (e.g., listed on pg. 16 of the Applicants' disclosure), it would help to further distinguish the present invention from the Graham reference. The Examiner also indicated that it would be helpful to amend independent claim 17 to include information related to how an "interruption location" is determined (i.e., based on time).

Finally, during the interview, the Examiner identified some potential issues under 35 U.S.C. 101 and 35 U.S.C. 112. With regard to 35 U.S.C. 101, the Examiner indicated that the different "units" recited in the claims should be replaced by the respective structure used to perform the features recited in the claims to avoid a future rejection under 35 U.S.C. 101. Additionally, the Examiner suggested replacing the phrase "configured to" with more active language (e.g., a storage unit "storing"... ) to avoid a future rejection under 35 U.S.C. 112.

In the Office Action, claims 1-3, 5-10, 13-15 and 17-19 have been rejected under 35 U.S.C. 102(e) as being anticipated by Graham (U.S. Patent No. 7,343,435, hereinafter

“Graham”). The Applicants have amended independent claim 1 to help further distinguish the present invention from the cited prior art. As amended, claim 1 recites the following features:

“[a] content transmission device for use with, and to be connected with, a content receiving device over a network, said content transmission device comprising:

a storage unit storing content;

a transmission unit transmitting content to the content receiving device;

a receiving unit receiving a response message from the content receiving device, or receiving a signal of a status of the content receiving device;

a status monitoring unit determining that viewing and/or listening of content using the content receiving device has been interrupted when the receiving unit does not receive the response message within a predetermined time or when the signal of the status of the content receiving device indicates interruption of content reception;

an interruption location memory unit storing an interruption location of content when said status monitoring unit has determined that the viewing and/or listening of content has been interrupted; and

a transmission controlling unit controlling said transmission unit so as to transmit content in said storage unit to the content receiving device that corresponds to the interruption location stored in said interruption location memory unit.” (Emphasis added).

The features noted above in independent claim 1 are fully supported by the Applicants’ disclosure (see e.g., pg. 12, line 22 to pg. 13, line 2; pg. 13, line 11; pg. 13; and Fig. 1).

The present invention, as recited in independent claim 1, is distinguishable over the cited prior art in that the “status monitoring unit” of the content transmission device judges or determines whether viewing and/or listening of content has been interrupted based on whether a “response message” is received or whether the “signal of the status of the content receiving device” indicates an interruption of content reception.

If the monitoring unit determines there has been an interruption based on these signals, then the content transmission device resumes the transmission of content from the interruption location. However, if the monitoring unit determines there has not been an interruption based on

these signals, then nothing happens. Therefore, receiving signals from the receiving device according to claim 1 does not always lead to resuming operations.

In the Office Action, the Examiner relies on Graham for disclosing or suggesting all the features recited in independent claims 1. However, the Applicants assert that Graham fails to disclose or suggest the features independent claim 1, as amended.

In Graham, upon receipt of the client request signal, the server always resumes the download starting from the interrupted position (see col. 5, lines 19 to 22). In other words, in Graham, receiving the client request signal always leads to the resuming operation by the server.

Conversely, according to the present invention (as recited in claim 1), the “status monitoring unit” of the content transmission device, which is not a client device as in Graham, judges or determines whether viewing and/or listening of content has been interrupted based on whether a “response message” is received or whether the “signal of the status of the content receiving device” indicates an interruption of content reception. If the monitoring unit determines there has been an interruption based on these signals, then the content transmission device resumes content from the interruption location, but if the monitoring unit determines there has not been an interruption based on these signals, then nothing happens. Therefore, receiving signals from the receiving device according to claim 1 does not always lead to resuming operation, which is clearly different from the device disclosed in Graham.

Thus, Graham neither discloses nor suggests the features of amended claim 1 directed to “a status monitoring unit determining that viewing and/or listening of content using the content receiving device has been interrupted when the content receiving unit has not received the response message within a predetermined time or when the signal of the status of the content receiving device indicates interruption of content reception” and “an interruption location memory unit storing an interruption location of content when the status monitoring unit has determined that the viewing and/or listening of content using the content receiving device has been interrupted.”

Based on the above discussion, independent claim 1 (as amended) is not anticipated or rendered obvious by Graham. Additionally, claims 2, 3, 5-10, 13-15, 18 and 19 are not anticipated or rendered obvious by Graham at least by virtue of their dependencies from independent 1.

With regard to independent claim 17, the Applicants have amended the claim as suggested by the Examiner during the interview conducted with the Applicants' representative on March 19, 2009. Specifically, claim 17 (as amended) recites the following features:

“[a] content transmission device for use with, and to be connected with a content receiving device over a network, comprising:

a storage unit storing content;

a transmission unit transmitting content to the content receiving device;

an interruption location capturing unit capturing an interruption location at which the content receiving device becomes unable to receive content, or an interruption location at which viewing and/or listening of the content using the content receiving device has been interrupted; and

a transmission controlling unit controlling said transmission unit so as to transmit content in said storage unit to the content receiving device based on the interruption location captured by said interruption location capturing unit,

wherein said interruption location capturing unit captures the interruption reason for which the content receiving device became unable to receive content, or the interruption reason for which the viewing and/or listening of content using the content receiving device has been interrupted ;

said interruption reason is that a communication status of the content receiving device is that communications are worsening, an incoming call has been received by the content receiving device, a user of the content receiving device is driving, or an operation of the content receiving device is paused; and

said transmission controlling unit determines the predetermined distance to retrace from the interruption location according to said interruption reason, and controls said transmission unit to transmit content starting from the predetermined distance determined to the content receiving device.” (Emphasis added).

The features emphasized above in independent claim 17 are fully supported by the Applicants' disclosure (see e.g., pg. 16).

The present invention (as recited in independent claim 17) is distinguishable over the cited prior art in that the interruption location capturing unit captures the interruption reason for which the content receiving device became unable to receive content, or the interruption reason for which the viewing and/or listening of content using the content receiving device has been interrupted. The interruption reasons include a communication status of the content receiving device is worsening, an incoming call has been received by the content receiving device, a user of the content receiving device is driving, or an operation of the content receiving device is paused.

During the interview conducted on March 19, 2009, the Examiner indicated that if independent claim 17 was amended to recite in more detail the types of “interruption reasons” captured and considered (e.g., listed on pg. 16 of the Applicants’ disclosure), it would help to further distinguish the present invention from the Graham reference. As amended, independent claim 17 includes the interruption reasons suggested by the Examiner. Accordingly, independent claim 17 (as amended) should be distinguishable over Graham since no such features (i.e., interruption reasons) are believed to be disclosed or suggested by the reference. Based on the above discussion, independent claim 17 (as amended) is not anticipated or rendered obvious by Graham.

In the Office Action, claim 4 has been rejected under 35 U.S.C. 103(a) as being unpatentable over Graham in view of Omura et al. (U.S. Patent No. 6,430,620, hereafter “Omura”).

Claim 4 depends from independent claim 1. As noted above, Graham fails to disclose or suggest all the features of independent claim 1 (as amended). Additionally, Omura fails to overcome the deficiencies noted above in Graham. Accordingly, no combination of Graham and Omura would result in, or otherwise render obvious, claim 4 at least by virtue of its dependency from independent claim 1.

Finally, the Applicants have amended the claims to at least address the possible issues under 35 U.S.C. 112, as suggested by the Examiner.

In light of the above, the Applicants respectfully submit that all the pending claims are patentable over the prior art of record. The Applicants respectfully request that the Examiner withdraw the rejections presented in the outstanding Office Action, and pass this application to issue. The Examiner is invited to contact the undersigned attorney by telephone to resolve any remaining issues.

Respectfully submitted,

Junichi HIRAI et al.

/Mark D. Pratt/

By: 2009.04.22 12:53:18 -04'00'

Mark D. Pratt  
Registration No. 45,794  
Attorney for Applicants

MDP/ats  
Washington, D.C. 20006-1021  
Telephone (202) 721-8200  
Facsimile (202) 721-8250  
April 22, 2009